

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

Docket No. 03-E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

Docket No. 03-E-0112

**In the Matter of the Liquidation of
US International Reinsurance Company**

**LIQUIDATOR'S MOTION FOR
APPROVAL OF CLAIMS PROCEDURES**

Roger A. Sevigny, Insurance Commissioner of the State of New Hampshire, as Liquidator ("Liquidator") of The Home Insurance Company ("The Home") and US International Reinsurance Company ("USI Re"), by his attorneys, the Office of the Attorney General, hereby moves the Court to enter orders in the forms submitted herewith establishing procedures regarding claims filed with The Home and USI Re. The Liquidator believes that such an order is necessary to provide for the more efficient and uniform resolution of claims submitted in the liquidations. In support hereof, the Liquidator represents as follows:

1. In accordance with the Order Approving Notice entered June 11, 2003, the Liquidator has mailed notice of the liquidation of The Home or USI Re and the claim filing deadline, together with a proof of claim form, to over 334,000 potential claimants and has given broad publication notice. As of November 17, 2003, the Liquidator had received 2,084 proofs of claim. The Liquidator anticipates receiving many more proofs

of claim before the June 13, 2004, deadline for filing claims (the "Bar Date") established in the Orders of Liquidation entered June 13, 2003.

2. The New Hampshire statutes provide only a basic framework for the determination of claims against insurers in liquidation. Claimants are to file proofs of claim containing the information called for by RSA 402-C:38, I, by the claim filing deadline established under RSA 402-C:37, I. The Liquidator is to review all claims duly filed against the insurer, and may compound, compromise or otherwise negotiate the amount for which claims will be recommended to the Court. RSA 402-C:45, I. The Liquidator may deny claims in whole or in part and mail written notice to the claimant. See RSA 402-C:41, I. The claimant may object to a denial by filing written objections with the Court within 60 days from the date of the Liquidator's mailing of the notice; if no objection is timely filed, the claimant may not further object. RSA 402-C:41, I. If a timely objection is filed, the Liquidator is to request a hearing and provide notice to the claimant. RSA 402-C:41, II. Either the Court or a court-appointed referee may hear the matter. RSA 402-C:41, II. The Liquidator is to submit periodic claim reports to the Court with recommended amounts, and the Court sets the final allowed amounts in acting on those reports. RSA 402-C:45, II.

3. In light of the numbers of claims that have been and are anticipated to be filed, and the potential for a significant number of disputed claims that may ultimately need to be decided by the Court, the Liquidator submits that it is desirable to establish more detailed procedures regarding claims, in particular to provide uniform processes for the orderly determination of disputed claims while allowing for claims of varying complexity. Such procedures will provide claimants and the Liquidator, as well as any other directly affected persons, with a framework in which to resolve disputes that will

reduce procedural issues and provide for the more efficient and economical determination of claims.

4. The Liquidator has accordingly prepared a proposed Order Establishing Procedures Regarding Claims Filed With The Home Insurance Company In Liquidation (the “Home Procedures”) and a proposed Order Establishing Procedures Regarding Claims Filed With US International Reinsurance Company In Liquidation (the “USI Re Procedures”) (collectively “Procedures”). The purpose of the Procedures is to achieve uniformity and to provide procedures for the presentation, processing, determination and classification of claims and to assist all Claimants worldwide in the orderly presentation of their claims against The Home and USI Re. See Procedures § 3(b).

5. The Procedure fills out the basic statutory framework described above by providing procedures for the following:

a. Filing of claims. The Procedures require the filing of claims on or before the Bar Date. Procedures § 4. Subject to further order of the Court, the Procedures provide that claims preferably should be filed on the proof of claim form and specify the elements required in a claim submission. Procedures § 5(a)-(c). They make clear that the Liquidator is authorized to require supplementary information. Procedures § 5(d). See RSA 402-C:38, III.

b. Determination of claims by the Liquidator. The Procedures provide for the Liquidator to review and investigate claims and maintain a POC Claim File. The Liquidator is to make a determination of each claim that will either (i) allow the claim in whole or in part and classify the amount of the allowed claim as to priority, or (ii) disallow the claim. The Liquidator will then mail a Notice of Determination to the claimant. Procedures § 6. The claimant may (but need not) request reconsideration of

the determination by the Liquidator by filing a Request for Review with the Liquidator within 30 days of the mailing of the Notice of Determination, in which case the Liquidator will review the claim and issue a Notice of Redetermination. Procedures § 7.

c. Objection to denials of claims. The Procedures require the claimant to file an Objection with the Court within 60 days from the date the Notice of Determination was mailed to the claimant. (If the claimant timely requested review by the Liquidator, the Objection must be filed within 60 days of the Notice of Redetermination.) Objections must also be mailed to the Liquidator. Procedures § 8. If a claimant fails timely to object to a determination, the claimant may not object further. Id. See RSA 402-C:41, I.

d. Resolution of disputed claims by a referee. The Procedures provide for the determination of disputed claims by a referee, unless the Court determines to hear a claim itself in the first instance. Procedures § 10. See RSA 402-C:41, II.¹ After a claimant files a timely objection, the Liquidation Clerk (an employee of the Liquidator responsible for the orderly processing of claims) will commence Disputed Claim proceedings by issuing a Notice of Disputed Claim. Directly affected persons (other than the claimant and the Liquidator) must file motions to participate, and the Liquidator and claimant are to exchange mandatory disclosures on a schedule set forth in the Procedures. See Procedures §§ 9, 10, 14. The Procedures provide for service of filings. Procedures § 9.

e. Expedited procedures for small claims. “Small Claims” – defined as claims with an asserted value of less than \$50,000 – may be set for an immediate pre-

¹ Section 10 of the Procedures provides that the Referee shall be appointed pursuant to RSA 519:9, and that the Referee shall conduct Disputed Claim proceedings according to the rules of equity or law, as the case may be, pursuant to RSA 519:10, and that the proceedings shall be governed by the New Hampshire Superior Court Rules and the New Hampshire Rules of Evidence.

hearing conference at which the Referee is authorized to issue a final determination.
Procedures § 12.

f. Orderly procedures for other claims. Other claims will be the subject of a Structuring Conference before the Referee in accordance with N.H. Super. Ct. R. 62. Procedures § 14. Claim disputes will be heard based on written submissions by the claimant and the Liquidator filed in accordance with the schedule set forth in the Procedures (or as determined in the Structuring Conference Order), unless a request for an evidentiary hearing is made and granted. Procedures §§ 11, 15, 16. If an evidentiary hearing is granted, there will also be a pre-hearing conference in accordance with N.H. Super. Ct. R. 62, and the evidentiary hearing will be recorded and held in accordance with New Hampshire practice. Procedures §§ 17, 18.

g. Decisions on disputed claims. The Referee is to rule on disputed claims by issuing a report in accordance with RSA 519:10-12, which will be filed with the Court and mailed to all participants in the Disputed Claim proceeding. Procedures § 19. The claimant or Liquidator may file a Motion to Recommit within 15 days from the date the report is filed with the Court. If no Motion to Recommit is timely filed, the Court will enter judgment on the Referee's report in accordance with RSA 519:12. Procedures § 20.

h. Costs. The Procedures specify the costs that are to be charged to a claimant. Other costs, including the compensation and expenses of the Referee, are to be paid by the Court and assessed against the liquidation as an administrative expense. The Referee may impose costs against a party in accordance with RSA 519:14. Procedures § 23.

6. The Referee's or Court's ultimate determination of disputed claims, and the Liquidator's determinations of other claims which are not the subject of objection, will be incorporated in the Liquidator's claims reports submitted in accordance with RSA 402-C:45, II.

7. The USI Re Procedures differ from the Home Procedures only in that references to policies and guaranty funds have been removed. USI Re is a reinsurance company that did not write direct insurance, so it will not have claims under policies and the state insurance guaranty funds will not be implicated.

8. The Liquidator submits that the Home Procedures and USI Re Procedures provide appropriate processes for the determination of claims that will assist in achieving a more uniform, efficient and economical resolution of claims in the liquidations, while at the same time conserving judicial resources.

WHEREFORE, the Liquidator requests that the Court enter orders in the forms submitted as Exhibits A and B herewith establishing procedures regarding claims filed in the liquidations of The Home and of USI Re, and grant such other and further relief as may be just.

Respectfully submitted,

ROGER A. SEVIGNY, INSURANCE
COMMISSIONER OF THE STATE OF NEW
HAMPSHIRE, SOLELY IN HIS CAPACITY AS
LIQUIDATOR OF THE HOME INSURANCE
COMPANY AND US INTERNATIONAL
REINSURANCE COMPANY,

By his attorneys

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